

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SHANNON TAYLOR,	:	
	:	
Plaintiff,	:	Case No. 3:12mc00020
	:	
vs.	:	District Judge Timothy S. Black
	:	Chief Magistrate Judge Sharon L. Ovington
	:	
WESTERN SOUTHERN	:	
FINANCIAL GROUP,	:	
	:	
Defendant.	:	
	:	

ORDER

This case is before the Court upon Plaintiff's Motion (Doc. #9), through counsel, seeking a final 14-day extension of time to file a Reply to Defendant's Response to Plaintiff's Motion to Vacate Arbitrator's Award. Plaintiff's counsel explains that he "is continuously trying to catch up with scheduling's [sic] and commitments on a wealth of different cases, and additional time would be beneficial as to obtaining a breather so to speak." (Doc. #9, PageID at 74). He further explains that he seeks a 14-day extension of time to file a Reply due to "unforeseeable circumstances." *Id.* He has stayed up for more than 60 hours researching and writing a brief in another case and two of his cases will most likely end this week. Counsel identifies one case in which an all-day mediation is set to occur tomorrow (February 13, 2013) and another case requiring him to be in Chicago, Illinois in two days (on February 14, 2013) for oral argument before the United States Court

of Appeals for the Seventh Circuit. He further notes that he left a message with opposing counsel notifying him of this request for an extension and has received no information about whether Plaintiff's Counsel's present Motion is unopposed. He also notes that he will not seek any further extension of time to file a Reply.

This is Plaintiff's counsel's fourth Motion asking for an extension of time to file a Reply in this case. (Doc. #s 5, 6, 8). The Court's Notation Order granting his Third (Amended) Motion for Extension of Time informed him, "No further extensions of time will be granted, absent extraordinary circumstances." The particular circumstances counsel describes do not constitute extraordinary circumstances sufficient to justify another 14-day extension. At best for counsel, he describes his presently over-crowded work schedule without providing any basis for concluding that extraordinary circumstances led to or contributed to this problem. The circumstances he describes can frequently arise for litigation attorneys, such a Plaintiff's counsel, and do not by themselves constitute extraordinary circumstances sufficient to justify the present fourth request for an extension of time. Counsel is doubtlessly well aware that "[a] lawyer shall act with *reasonable* diligence and promptness in representing a client." Rule 1.3, Ohio Rules of Professional Conduct (effective Feb. 1, 2007) (*italics in original*).¹ To accomplish this, "[a] lawyer must

¹ "[T]he Ohio Rules of Professional Conduct govern in this district." *Big Idea Co. v. Parent Care Res., LLC*, 2:11-CV-1148, 2012 WL 4057216 (S.D. Ohio Sept. 14, 2012); *see also* S.D. Ohio Civ. R. 83.3(h) and Rule IV(B), Model Federal Rules of Disciplinary Enforcement ("The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the highest court of the state in which this Court sits").

control the lawyer's work load so that each matter can be handled competently." *Id.* (Official Comment 2).

Accordingly, Counsel's Fourth Motion for Extension of Time lacks merit. Yet because the Federal District Courts prefer to decide each case on its merits, Counsel will be afforded a FINAL brief extension. Counsel remains on NOTICE that his failure to file a timely Reply as required by this Order may result in dismissal of this case for failure to prosecute.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Fourth Motion for Extension of Time (Doc. #9) is **DENIED** to the extent he seeks a further 14-day extension; and
2. Plaintiff shall file a Reply **on or before midnight on February 18, 2013.**

February 12, 2013

s/Sharon L. Ovington
Sharon L. Ovington
Chief United States Magistrate Judge